

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MATTHEW R. THOMAS,

Plaintiff,

v.

CASE NO. 21-3118-SAC

KANSAS DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

ORDER OF DISMISSAL

This matter is a civil rights action filed under 42 U.S.C. § 1983. On August 27, 2021, the court entered a Notice and Order to Show Cause (NOSC) directing plaintiff to submit an initial partial filing fee of \$2.00 and to submit an amended complaint to cure deficiencies noted in the NOSC. Plaintiff has failed to respond to the NOSC within the time allowed.

Rule 41(b) of the Federal Rules of Civil Procedure "authorizes a district court, upon a defendant's motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or 'a court order.'" *Young v. U.S.*, 316 F. App'x 764, 771 (10th Cir. 2009) (citing Fed. R. Civ. P. 41(b)). "This rule has been interpreted as permitting district courts to dismiss actions *sua sponte* when one of these conditions is met." *Id.* (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). "In addition, it is well established in this circuit that a district court is not obligated to follow any particular procedures when dismissing an action *without prejudice* under Rule 41(b)." *Young*, 316 F. App'x at 771-72 (citations omitted).

Having considered the record, the court will dismiss this matter without prejudice due to plaintiff's failure to file a response.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice.

IT IS FURTHER ORDERED plaintiff's motion to proceed in forma pauperis (Doc. 2) is denied as moot.

**IT IS SO ORDERED.**

DATED: This 30th day of September, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge